IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

FILED
DEC 12 2016
CLERK, US DISTRICT COURT
NORFOLK, VA

Jupiter Dennell Wilson, Sr.

Plaintiff(Pro se litigant),

v.

CIVIL ACTION NO.: 2:16cv711
JURY TRIAL DEMANDED

City of Chesapeake,
in it's Official Capacity as the

Defendant.

COMPLAINT

Comes now, plaintiff, Jupiter D. Wilson, to pay for consideration to contract for the sum of $400.00 to expect impartiality and equity by sworn oaths and affirmations from *this* Court for which plaintiff is entitled, and to assert as alleged continuous Title VII and ADEA violations against the above defendant of whom through its subordinates on behalf of and as condoned by this "person" as it appears to have deliberately sought to invidiously apply nefarious policies, practices, and procedures to discriminate against plaintiff based on plaintiff's race, and age in retaliation to sustain egregious deprivations with further intent to disenfranchise and discourage plaintiff to participate in or have access to the equal employment opportunity process as compared to whites similarly-situated as it appears to be openly portrayed against plaintiff before the Chesapeake Fire Department while defendant has remained in outright irrational defiance with intentionally flagrant non-compliance despite having participated in, and being in control of the same state and federally unregulated unequal employment importunity process as follows:

I. INTRODUCTION

1). Plaintiff over the last three promotional processes has with patience unwaveringly strived in determination for excellence, and integrity, while courageously working to maintain a positive attitude before as it appears a mad, mutinous, and insubordinate chain of command and fellow comrades having endured in righteousness without incident(s) to be reprimanded yet defendant has with bias, lunacy, and vindictiveness has repeatedly sought to divisively criticize, and chide, degrade, demean, and deride plaintiff without logical justification to implement a pernicious and unlawful motive to lower plaintiff's score on two evaluations that has progressively effected plaintiff's chances for merit increases and/or promotions despite plaintiff's purposed accomplishments, and qualifications that had exceeded as compared to whites' similarly-situated moral and job performances based on plaintiff's limited opportunities to train as afforded by defendant as it appears over the last three promotional processes due to defendant's harsh views for retaliation against plaintiff's race and age to be explained as follows:

II. BACKGROUND

2). Now based on this current EEOC charge filed February 16, 2016, that issued a "Dismissal and Notice of Rights", on September 30, 2016, Plaintiff whose race is black and at the time of filing the EEOC charge was 56 years old comes now to assert below the following issues of which the defendant have sought in defiance with deliberant reckless indifference to remain out of compliance with the statutes. Wherefore; plaintiff declares the current EEOC charge as follows:

3). I began employment with the employer listed above on November 1, 1996, as a Fire Fighter. Throughout my tenure I have received excellent performance evaluations. On April 23, 2015, I received my annual evaluation and due the vast amount of work I completed, I believed I would be eligible for a merit increase. I was not chosen to receive a merit increase because of the comments written on my evaluation. The comments were that I failed to communicate the shift rotation to a co-worker and that interfered with company cohesion. I spoke with LT. Francis Cherry, Supervisor, about the concerns with my evaluation. I explained that I had communicated the shift rotation to my co-worker Mr. Cherry said he would not change the evaluation. I also took my concerns to Nestor Mangubat, the EEO officer for the Fire Department. The comments will directly affect my chances of promotion. Lt. Ackiss was the approving officer for my evaluation. I have noticed over the years that black workers have been treated differently than white younger coworkers. White coworkers are afforded training opportunities, promotion opportunities, and allowed to drive government vehicles while I use my own vehicle to take leave to attend training. White younger coworkers that began working years after me have been promoted above me.

4). The reason I was given for not receiving a merit increase is because I didn't do as well as other applicants. I was not given a reason why the evaluation was not changed or why younger white coworkers are treated better than older black coworkers.

5). I believe the comments were written in my evaluation and I was denied a merit increase because of my race, Black and age 56, in retaliation for participating in a protected activity, in violation of

Title VII of the Civil Rights Act of 1964, as amended and in violation of the Age Discrimination in Employment Act of 1967, as amended.

6). As a result of plaintiff engaging in certain protected activities of which the defendant either had a reason to expect, knew what was happening, or had happened, the defendant had sought to deliberately execute with as appeared irrationality the following:

a). For years the defendant had knowledge of and/or had reasons to know of prior, existing, and future EEOC charges that were either filed or could be filed that could lead to litigation because of plaintiff's repeatedly open and candid communications and peaceful actions taken to preserve the state and federally regulated EEO process *not as a Lieutenant,* but as just a firefighter by indicating to defendant without cause for reprimand there is a problem between plaintiff and defendant that needs overdue attention for resolve that defendant as it appears has in anger deliberately ignored with bias, contempt, idiocy, and retaliation because of plaintiff's race and age.

b). As it appears over the last three subjective At-Will-Employment-Policy promotional cycles, plaintiff while performing more tasks or functions while keeping plaintiff's annual evaluations in mind had pressed or worked fervently to achieve excellent scores, yet plaintiff has witnessed plaintiff's evaluation scores subjectively drop from a 4.43 during the 2011-2013 promotional process to a 4.26 during the 2013-2015 promotional process to a 3.60 during this 2015-2017 promotional process as discriminatory and retaliatory because of plaintiff's race and age.

7). Plaintiff believes that because of plaintiff's race and age was repeatedly discriminated and retaliated against due to Wilson's complaining about plaintiff's rights to fairly participate in the so called "EEO process," of which seemed as undoubtedly *unequal*, and how Chief Ackiss handled the station rotation on behalf of the defendant on plaintiff's turn "to be the acting officer in charge" as proofed by the dumbing down of plaintiff's evaluation in 2014, to deny increase in salary, and by using plaintiff's handling of the Chief Ackiss and Firefighter Copeland episode as part of Wilson's 2015 evaluation/retaliatory training against promotion because of plaintiff's race and age.

8). Defendant is fully aware of the undeniable, and undisputed facts that plaintiff *since 2014*, has filed EEOC charges that has also resulted in litigation of which has costs the Defendant time and money to deal with while using the City Attorney's Office to defend. (All prior EEOC charges)

9). Defendant is fully aware of the undeniable, and undisputed facts that plaintiff *during April 23, 2015,* had pending EEOC charges that had also resulted in litigation of which has costs the Defendant time and money to deal with while using the City Attorney's Office to defend.

10). Defendant is fully aware of the undeniable, and undisputed facts that plaintiff *after April 23, 2015,* has filed an EEOC charge, irrespective of pending litigations of which has/will costs the Defendant time and money to deal with while using the City Attorney's Office to defend.

11). In other words, once the spotlight is shined on the defendant the following realizations are inevitably perceivable:
Concerning the preceding three paragraphs above, the defendant's actions as related to the EEOC charge of April 23, 2015, was to kill two birds with one stone twice pertaining to the 2014, and 2015 evaluations as being indeed retaliatory having a double impact against plaintiff from defendant's denials on plaintiff for promotion and merit increase while having knowledge of Plaintiff's litigation against Defendant and while maintaining absolute control over the state and federally regulated EEO process, and having employees with bias on defendant's behalf to implement brazenly

unlawful usurpations against plaintiff's entitled employment rights of access to fairly participate in the equal employment opportunity process because of defendant's triple retaliations against plaintiff's race and age despite plaintiff's participation in three protected activities during the employment process.

12). Actually the defendant have engaged in triple retaliation against plaintiff because plaintiff was engaging in protected activities to file EEOC charges with the prospect to litigate, while also participating in the promotional and merit increase processes. The preceding statement in this ¶ coupled with defendant's bias appears to be the motive to continue engaging in discriminating and/or retaliating against plaintiff because Defendant based on past beliefs and conduct had reason to feel inferior or discounted from plaintiff's entitled constitutional and civil rights to engage in protected activities while still employed, rendering the At-Will-Employment-Policy in checkmate.

Therefore; the only move the defendant had to play was to engage in unscrupulous irrational pretext for retaliation based on plaintiff's race and age to further discriminate as compared to whites and younger whites, similarly-situated.

13). The unlawful actions as condoned by the defendant amounts to a **strong man cracking the horse whip with greater intensity while using thicker leather and broken glass tips** with no prospect of ever stopping or giving acknowledgement of approval of plaintiff's impeccable job performance while reaping massive gratifications to glorify defendant's insanely enraged culpable bias to the degradation, humiliation, and expense of plaintiff as enjoyed by the defendant at the defendant's pleasure as compared to whites and younger whites, similarly-situated.

14). Plaintiff while continuing to daily experience during the last two promotional processes, has clearly seen no chance for a change of heart from the bias of Defendant's daily nefarious stoned-walled inflictions to create avoidance, denial and harsh suppressions upon plaintiff for inconsideration to not lower the scores of plaintiff's annual evaluations towards refusal by defendant to give plaintiff a merit increase or a promotion, thus plaintiff has **sought with an undying and unwavering conviction to rise up, stand up and face up** to defendant's intense sadistic adversity, and perplexity that has bombarded vehemently against and upon plaintiff's person, and with fervent determination has continued to rally to the cause against the plight of injustice as tolerated and eagerly encouraged by subordinates as condoned by, and on behalf of the defendant's intent to incubate, fester, and ooze out gross egregious deprivations painstakingly upon Wilson while Wilson in spite of it courageously continues to press forward as unlawfully monitored by the Defendant during as it appears the unwarranted unregulated state and federally unequal employment importunity process as compared to whites and younger whites, similarly-situated.

15). Now this is all documented while in the eyes of plaintiff's chain of command is seen as strictly and/or only plaintiff's fault during the state and federally unregulated unequal employment importunity process. The Defendant said that plaintiff's evaluation was too high so defendant lowered plaintiff's actual score on the evaluation both in 2014, and 2015. Plaintiff was dissatisfied so plaintiff sought a meeting so plaintiff could talk to Deputy Chief Fermil of which was granted.

III. Every time when plaintiff makes a conscious effort to bring resolve to the problems that appears to be of a discriminatory nature to the chain of command plaintiff is met with intense rejection, intentional delay, and denial, having a callous effect resulting in Wilson's issues being unaddressed. As it appears no one, especially not the defendant was listening to plaintiff during the state and federally regulated EEO process that rather seems grossly *unregulated* while in the complete, unfettered, control of the defendant.

16). On Tuesday June 2, 2015, there was a meeting with Chief Ackiss and Captain Mangubat concerning the "Evaluation" written by Lt. Cherry concerning plaintiff. Plaintiff witnessed the meeting lasting one hour and 30 minutes with no resolve. There was then a meeting with those two officers and Division Chief Ellis. That meeting was a little more productive with Chief Ellis saying he understood what I thought was crucial to my concern dealing with the EEO charge I have on file. Chief Ellis had asked plaintiff what he(Chief Ellis) could do for me(plaintiff) and what was it that plaintiff wanted to come out this situation. Plaintiff met with that group for about 40 minutes also.

17). Plaintiff then asked if plaintiff could talk to the Deputy Chief Fermil and it was granted. When plaintiff had arrived at Deputy Chief Fermil's office plaintiff was instructed to have a seat and then entered the room was the Division Chief Ellis and Fire Chief Elliott. Plaintiff's seat was against the wall with these three Chiefs surrounding plaintiff. Plaintiff began to talk about the things that plaintiff believed were of the most importance to the City and the Department. The meeting lasted about 40 minutes. When plaintiff had finished plaintiff was told that plaintiff was in no position to hear from the Fire Chief. He(Chief Elliott) also stated that plaintiff do not want to hear what Deputy Chief has to say because plaintiff is not going to like it.

18). Plaintiff then wanted to talk to Mr. Rosier about the "Evaluation" and he(Mr. Rosier) thought that plaintiff was only having communication problems. Mr. Rosier was correct, that when plaintiff is speaking no one listens. Mr. Rosier said that he(Mr. Rosier) needed to have a couple of days to get back to plaintiff. The meeting lasted about 40 minutes and plaintiff had thought that by Thursday we would have an answer to the situation at hand.

19). Plaintiff returned on Thursday June 4, 2015, and had a meeting with the previous Chiefs Elliott, Ellis, and Fermil. The things talked about were indeed crucial but not understood by the staff what plaintiff felt seemed to be the problem. Chief(Elliott) want to explain the letter that he(Chief Elliott) addressed to plaintiff about his(Chief Elliott) opinion concerning plaintiff's "Evaluation" written by Lt. Cherry.

20). Plaintiff was able to convey plaintiff's thoughts concerning plaintiff's employment with the City and it seemed that the audience was not truly interested in what plaintiff had to say. That meeting lasted about an hour.

21). Plaintiff had believed that plaintiff was dealing with an EEO issue and need not have to follow the chain of command. Plaintiff went to Captain Mangubat, an EEO Officer and tried to explain it to him with no avail. So then plaintiff proceeded to Mr. Rosier who refused to help earlier. Mr. Rosier later said plaintiff had to talk to Chief Elliott and bring this situation to Chief Elliott's attention.

22). Afterwards; plaintiff had talked to Chief Elliott of whom asked for time to fix this problem or at least investigate it. Days later plaintiff had received a letter explaining the Defendant's position on plaintiff's concerns. No one seems to be listening to what plaintiff had to say.

23). On Friday June 12, 2015, plaintiff had received a phone call from Chief Elliot about the meeting which was to take place that day in the Central Library. The detail of the meeting are not discussed so much as the documentation of there being a meeting. This was done because Chief Elliot said plaintiff was not to go out of the "Chain of Command" which is difficult to perform.

24). Mr. Rosier asked plaintiff to bring him(Mr. Rosier) a copy of the "Evaluation" so Mr. Rosier could take a look at it. Plaintiff thought it was to find the truth, but it was to find evidence it seems against plaintiff. Plaintiff had asked Mr. Rosier why now was he(Mr. Rosier)interested in the "Evaluation" now and not before. Mr. Rosier stated that plaintiff had said something about discrimination. Plaintiff had corrected Mr. Rosier and he(Mr. Rosier) had changed his(Mr. Rosier's) story. Mr. Rosier said that Chief Elliott had asked him(Mr. Rosier) to look into the matter. This caused plaintiff to further realize how much Plaintiff is not being listened to but Chief Elliot has the attention of those who have power to investigate, searching for whatever while trying to follow the chain of command to make it right.

25). Plaintiff now seeks to be promoted to a Master Fire Firefighter, to qualify plaintiff needs a 3.75 while following and adhering to the chain of command. By the second time the score was again lowered concerning the Chief Ackiss/Firefighter William Copeland situation to "Act Out of Title" was used as the basis to lower plaintiff's score as compared to whites and younger whites, similarly-situated.

26). Plaintiff's evaluations were lowered by defendant despite plaintiff's increased efforts to aspire to accomplishing more productivity to the gratification of the defendant while methodically being excluded from promotional opportunities like promotions and merit increases although plaintiff was punished for things plaintiff didn't do because of defendant's retaliation against plaintiff's race and age as compared to whites and younger whites, similarly-situated.

27). Plaintiff was looked at with disdain causing plaintiff to feel discounted by comrades and the chain of command leaving plaintiff further behind to not experience progressive promotional opportunities by being left outside of the loop because of defendant's retaliation for Wilson engaging in entitled protected activities against plaintiff's race and age as compared to whites and younger whites, similarly-situated.

28). Plaintiff for the most part appears shut out of the state and federally regulated equal employment opportunity process because of defendant's retaliation for Wilson engaging in entitled protected activities against plaintiff's race and age to discriminate as casually connected to the Defendant's whims and/or caprices to irrationally deny plaintiff the same opportunities as afforded to whites and younger whites similarly-situated.

29). The Defendant as it appears had afforded, and delegated Chief Ackiss supreme control with unfettered discretion to act on behalf of the City of Chesapeake Fire Department to administer the state and federally regulated equal employment opportunity process upon plaintiff that has resulted in unwarranted tensions, discords, and distrusts against plaintiff in relations to the chain of command and other employees that had endured and intensified from the incident of October 24, 2014, of which occurred during prior litigation (Case No.:2:14cv00420-MSD-DEM) concerning Firefighter William Copeland and Battilion Chief Ackiss of which plaintiff was to blame, causing even that issue to be credited to plaintiff's fault as irrationally condoned by the Defendant because of defendant's discrimination and retaliation against plaintiff's race and age as compared to whites and younger whites, similarly-situated.

30). Again, the first meeting with Lieutenant Cherry said he "is sticking to the fact that it is plaintiff's fault", second meeting with Capt. Nestor Mangubat, EEO officer and Battalion Chief Ackiss that Captain Nestor said plaintiff should have sent an email(while not having the authority to tell Copeland)(plaintiff felt at that time that BC Ackiss should have recused himself), third meeting Alvin Ellis, Chief of Operations, Deputy Chief Dan Fermil and Fire Chief Elliott, who is the decision maker to determine who receives a raise. Fire Chief Elliott also said that "the scores didn't matter". This again proves that the promotional process is excessively subjective in which means no matter what plaintiff's score was or is, at the end of the day, it is all about who the "chain of command" of whom acts on behalf of the defendant wants to have raises, to "act out of title(acting officer in charge)", to get the red carpet treatment for training, and for promotion as irrationally condoned by the defendant while having knowledge and responsibility to enforce the state and federally regulated equal employment opportunity process although with deliberant defiance seeking to indulge in an unlawful, flagrant, and nefarious usurpation insubordinate of defendant's authority when it comes to handling plaintiff's rights for access to Defendant's EEO process as compared to whites and younger whites, similarly-situated.

31). Plaintiff feels that because plaintiff was already in litigation while engaging in federally protected activity prior and during the Chief Ackiss/FF Copeland event, Chief Ackiss should have been recused because Chief Ackiss was acting on behalf of the Defendant in determining the Evaluation, and was sitting in on a meeting with Captain Mangubat regarding the evaluation process of plaintiff in order to keep the employment process impartial? As a result of this biased process, plaintiff was severely prejudiced as compared to whites and younger whites, similarly-situated.

32). Besides, during 2014, and 2015, the Defendant's intent to use grossly vindictive devises such as the Chief Ackiss/Firefighter Copeland station rotation, station 7 crew dismantling, and FF Copeland's sudden resignation as an Acting Officer issues to justify the defendant dumbing down the scores on Wilson's 2014/2015 erroneous, and flagrant evaluations were disingenuous because the defendant had only based plaintiff's false evaluations on concocted prevarications from the truth of which was related to defendant's motive to maximize effect of defendant's efforts to implement double in 2014, and triple retaliation in 2015, against plaintiff based on plaintiff's race and age while plaintiff was seeking and participating for acquisition of, to engage in entitled protected activities such as filing EEOC charges for litigation, striving for a promotion, and attempting to obtain a merit increase during as it appears the brazenly unregulated state and federally unequal employment importunity process as compared to whites and younger whites, similarly-situated.

33). After I [was] talking to Lt. Cherry about the evaluation the Lieutenant said plaintiff's word should have been enough to change FF Copeland's decision on the acting out of title position as compared to whites and younger whites, similarly-situated.

34). It became also apparent as plaintiff perceives that what plaintiff has continued to experience is the will of this Defendant(as a corporation) misperceiving a possession of agonistic state rights as not so surrendered(*nor as terms clearly defined*) as related to the federal government, yet as delegated to it's subordinates for the express purpose of executing an usurpation over plaintiff's employment relationship without Due Process or Equal Protection of the law because of defendant's retaliation against plaintiff's race and age to further discriminate as compared to whites and younger whites, similarly-situated.

35). It appears the bias and disdain of defendant against plaintiff to undermine plaintiff's entitled efforts to acquire a promotion and/or merit increase has sparked or ignited sharply defendant's will to instead with intense precise deliberateness and with unchecked unbridled anger to leave plaintiff with excruciating pains and sufferings from inculcating for incubation an indelible impression through its callous subordinates on the defendant's behalf, that defendant could do whether pre-meditated or on impulse, arbitrarily, and/or capriciously, calculated and/or recklessly anything defendant wanted to do to plaintiff because of defendant's unchecked state authorization by contract via the At-Will-Employment-Policy relationship thought itself to be God to exercise its sovereign will over plaintiff to wield defendant's biased retaliation harshly against plaintiff's race and age?

36). It appears by reason of defendant as blinded with bias to generate pre-conceived thoughts to understand that, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States…" (as running parallel to the state of Virginia's At-Will-Employment-Policy having Eleventh Amendment immunity to afford and/or equip the Defendant with unmatched authorization to indulge in biased ***fits-of-rage*** to discriminate and retaliate against plaintiff by marking down twice plaintiff's evaluation scores to deny plaintiff a merit increase and/or promotion) as appears with bias deliberately forgetting or overlooking the rest of the Ninth Amendment that says, "*respectively or to the people*" [because of defendant's retaliation against plaintiff's race and age to further discriminate].

37). Consequently; it appears, as a result of defendant's twisted misconstrued perceptions to recklessly indulge in misapplications of premeditated bias to deliberately discriminate and retaliate while having knowledge of and maintaining absolute control over the state and federally regulated equal employment opportunity process, the subordinates own behalf of the defendant have persevered to create, incubate, and incessantly sustain unlawful employment practices because of defendant's retaliation against plaintiff's race and age as compared to whites and younger whites, similarly-situated.

38). In other words, it appears the defendant may have become mentally challenged, or completely delusional with relations to its ability to preserve the state and federally EEO process shown by the City's mishandlings of plaintiff's entitled rights to indulge in federally protected activities without unlawful usurpations implemented by its staff on defendant's behalf because of defendant's retaliation against plaintiff's race and age to further discriminate as compared to whites and younger whites, similarly-situated.

IV. RELIEF SOUGHT

A. Plaintiff requests the court to grant Injunctive Relief as follows:

B. The Defendant through its agents, supervisors, employees, etc. be enjoined from maintaining current unlawful employment practices against Plaintiff in violation of Title VII of Civil Rights Act of 1964 as conflicting with Title VII and laws.

C. Issue an injunction prohibiting denial of equal employment opportunity to Plaintiff and comply with Title VII, and laws of the United States. See Exhibit A (includes Right to Sue Letter).

D. In accord with the foregoing, plaintiff Jupiter D. Wilson claims damages against defendants as follows:

Compensatory	$1 Thousand Dollars
travel expenses	N/A
mental anguish	$1.5 Million Dollars
expected loss	N/A
of lifetime investment	N/A
of his property	N/A
and loss of his stability	N/A
protection, care	N/A
and residence	N/A
Punitive damages:	$5.199 Million Dollars

Attorney fees, 42 U.S.C. § 1988(b):$3.3 Million Dollars

Total damages: $10 Million Dollars

Wherefore; plaintiff demands judgment against Defendant for fair opportunity for merit raise and asks for psychological examinations of subordinates to determine emotional and mental state of the defendant at the expense of the defendant in addition to plaintiff's costs expended in this action(pursuant to state and federal law).

Plaintiff request competent legal counsel be timely appointed in the interest of justice for fair representation of a proper case to the Court.

Respectfully Submitted, **December 12, 2016**

Jupiter D. Wilson Sr., pro se litigant 757-560-7449
1600 Head of River Road
Chesapeake, Virginia 23322

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRIGINIA
_______________ DIVISION

Jupiter D. Wilson Sr.
Plaintiff(s),

v.

Civil Action Number: 2:16cv711

City of Chesapeake
Defendant(s).

LOCAL RULE 83.1(M) CERTIFICATION

I declare under penalty of perjury that:

No attorney has prepared, or assisted in the preparation of ______________________.
(Title of Document)

Jupiter D. Wilson Sr.
Name of *Pro Se* Party (Print or Type)

Jupiter D. Wilson Sr.
Signature of *Pro Se* Party

Executed on: Dec. 12, 2016 (Date)

OR

The following attorney(s) prepared or assisted me in preparation of ______________________.
(Title of Document)

____
(Name of Attorney)

____
(Address of Attorney)

____
(Telephone Number of Attorney)
Prepared, or assisted in the preparation of, this document

____
(Name of *Pro Se* Party (Print or Type)

____
Signature of *Pro Se* Party

Executed on: ______________________ (Date)